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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,788	12/31/2001	William Earl Webler	5618P2949	4085

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EXAMINER

HAN, MARK K

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

## Application No.

10/038,788

## Applicant(s)

WEBLER, WILLIAM EARL

## Examiner

Mark K Han

## Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-30 is/are pending in the application.
- 4a) Of the above claim(s) 28-30 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-27 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2001 and 04 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims 28-30 drawn to an invention nonelected with traverse in Paper No. 09282004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-6, 8, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,876,373 to Giba et al. (hereinafter "Giba") in view of U.S. Patent No. 6,327,492 to Lemelson.

Giba discloses a substance delivery system having a handle 102, flexible body portion (first coat 110, second coat 106), flexible element 130, braid (see Figure 4), anchor element 118, tendon wire 122 and location sensor 134. See Figures 1-16. Giba, however, does not disclose an electrical interface electrically coupled to the tendon wire. Lemelson suggests a tendon coupled to an electrical interface. See Figure 4 and col. 19, line 18 through col. 20, line 18. It would have been obvious to one of ordinary skill in the art to modify the invention of Giba by coupling the tendon wire to an electrical interface in order to send an electrical signal between the distal and proximal ends of the catheter.

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3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giba in view of Lemelson.

Giba and Lemelson disclose the claimed invention as shown above. Giba and Lemelson, however, do not disclose expressly a coil wound at an angle of 55 degrees. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the coil wound at an angle of 55 degrees because Applicant has not disclosed that a 55-degree winding provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the coil winding of Giba and Lemelson because both would provide adequate flexibility of the coil. Therefore, it would have been an obvious matter of design choice to modify Giba and Lemelson to obtain the invention as specified in claim 7.

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giba and Lemelson in view of U.S. Patent No. 5,730,741 to Horzewski et al. (hereinafter "Horzewski").

Giba and Lemelson show the claimed invention as shown above except for a stabilizing member. Horzewski discloses a stabilizing member 108. See Figure 1. It would have been obvious to one of ordinary skill in the art to modify the invention of Giba and Lemelson by including a stabilizing member, as suggested by Horzewski, in order to guide the user when inserting the catheter.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Giba and Lemelson in view of U.S. Patent No. 6,009,349 to Mouchawar et al. (hereinafter "Mouchawar").

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Giba and Lemelson show the claimed invention as shown above. Giba and Lemelson, however, do not show an accelerometer. Mouchawar shows an accelerometer 952 for use in a catheter. See Figures 8 and 9. It would have been obvious to one of ordinary skill in the art to modify the invention of Giba and Lemelson by including an accelerometer, as suggested by Mouchawar, in order to monitor a patient's cardiac activity.

*Allowable Subject Matter*

6. Claims 13-27 are allowed.

7. The following is a statement of reasons for the indication of allowable subject matter:

The subject matter of the independent claims could either not be found or was not suggested in the prior art of record. The subject matter not found was the substance delivery system having a guide catheter and a needle catheter where the needle catheter has a duplex spring with a third plastic coating, a braided shaft over the spring, a needle coupled to an inner diameter of the duplex spring and an electrical insulator disposed between the needle and the electrode in combination with the other elements (or steps) in the claims.

*Response to Arguments*

8. Applicant's arguments with respect to claims 1 and 3-12 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark K Han whose telephone number is 571-272-4958. The examiner can normally be reached on Monday to Friday, 9 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Han  
Patent Examiner  
Art Unit 3763

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February 17, 2005



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